



## COURT REPORTERS CERTIFICATION BOARD

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Austin, Texas 78711-3131  
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Executive Secretary  
PEG LIEDTKE

ID# 13559  
mjs

September 6, 1991

RECEIVED

SEP 12 91

Opinion Committee

RQ-176

Ms. Madeleine B. Johnson  
Chair, Opinion Committee  
Office of the Attorney General  
Post Office Box 12548  
Austin, Texas 78711-2548

Reference: May the Court Reporters Certification Board consider an application for certification under Sec. 52.021(e) of the Government Code at its next meeting scheduled for October 1991, since effective September 1, 1991, Sec. 52.021(e) is repealed?

Dear Ms. Johnson:

The Court Reporters Certification Board hereby submits its opinion request on the above-captioned issue. During the 72nd Legislative Session, Section 52.021(e) of the Government Code was repealed, effective September 1, 1991. A copy is attached.

On August 12, 1991, an applicant filed with the Board office an application for certification under Section 52.021(e). A subcommittee of the Board could not reach a consensus on whether this individual fulfilled all of the requirements for certification. The next meeting of the full Board is scheduled for October 19, 1991. However, Section 52.021(e) is repealed as of September 1, 1991.

We respectfully ask for an opinion on whether the Board may consider this application for certification following the September 1st repeal date. Thank you for your consideration in this matter.

Sincerely,

ACCOMPANIED BY ENCLOSURES —  
FILED SEPARATELY

Merrill L. Hartman, Chairman  
Court Reporters Certification Board

enclosure

cc: Ms. Molly Shannon  
Ms. Pamela Joy Perkins

2/27/91

Filed by Gibson

9 -184

## A BILL TO BE ENTITLED

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## AN ACT

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relating to the certification of certain court reporters.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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SECTION 1. Section 52.021(e), Government Code, is repealed.

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SECTION 2. This Act takes effect September 1, 1991, and

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applies only to certifications by the Court Reporters Certification

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Board to the supreme court under Chapter 52, Government Code, made

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on or after that date. A certification made under Chapter 52,

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Government Code, before September 1, 1991, is governed by the law

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as it existed on the date the certification was made, and that law

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is continued in effect for that purpose.

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SECTION 3. The importance of this legislation and the

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crowded condition of the calendars in both houses create an

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emergency and an imperative public necessity that the

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constitutional rule requiring bills to be read on three several

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days in each house be suspended, and this rule is hereby suspended.

## **CHAPTER 52, GOVERNMENT CODE, V.T.C.A.**

### **Sec. 52.001. Definitions.**

In this chapter:

- (1) "Board" means the Court Reporters Certification Board.
- (2) "Certification" means a certification issued by the state supreme court on the board's recommendation.
- (3) "Official court reporter" means the shorthand reporter appointed by a judge as the official court reporter.
- (4) "Shorthand reporter" means a person who engages in shorthand reporting.
- (5) "Shorthand reporting" means the practice of shorthand reporting for use in litigation in the courts of this state by making a verbatim record of an oral court proceeding, deposition, or proceeding before a grand jury, referee, or court commissioner using written symbols in shorthand, machine shorthand, or oral stenography.

### **Sec. 52.002. Rules.**

The supreme court may adopt rules consistent with this chapter, including rules governing the certification and conduct of official and deputy court reporters and shorthand reporters.

Sections 52.003-52.010 reserved for expansion

## **SUBCHAPTER B. COURT REPORTERS CERTIFICATION BOARD**

### **Sec. 52.011. Organization.**

(a) The Court Reporters Certification Board is appointed by the supreme court and is composed of:

- (1) one active district judge who serves as chairman;
- (2) two active attorneys licensed in this state who have been practicing members of the State Bar for more than the five years immediately preceding their appointment to the board;
- (3) three active official court reporters who have practiced shorthand reporting in this state for more than the five years immediately preceding their appointment to the board;
- (4) three active certified shorthand reporters who work on a free-lance basis and who have practiced shorthand reporting for more than the five years immediately preceding their appointment to the board; and
- (5) three public members who are citizens of this state.

(b) It is the intent of the legislature that the membership of the board reflect the historical and cultural diversity of the inhabitants of this state. Therefore, appointments to the board should be made without discrimination based on race, creed, sex, religion, national origin, or geographical distribution of the appointees.

eligibility of each person applying for certification or recertification.

(b) The board may:

- (1) appoint any necessary or proper subcommittee;
- (2) hire necessary employees; and
- (3) pay all reasonable expenses from available funds.

(c) The board shall maintain:

- (1) a complete record of each board proceeding;
- (2) a complete record of each certification issued, renewed, or revoked; and
- (3) a detailed statement of receipts and disbursements.

(d) The board is charged with the executive functions necessary to carry out the purposes of this chapter under rules adopted by the supreme court.

#### **Sec. 52.014. Sunset Provision.**

The Court Reporters Certification Board is subject to the Texas Sunset Act (Chapter 325). Unless continued in existence as provided by that Act, the board is abolished September 1, 1997.

Sections 52.015-52.020 reserved for expansion

### **SUBCHAPTER C. CERTIFICATION**

#### **Sec. 52.021. Certification.**

(a) A person may not be appointed an official court reporter or a deputy court reporter unless the person is certified as a shorthand reporter by the supreme court.

(b) A person may not engage in shorthand reporting in this state unless the person is certified as a shorthand reporter by the supreme court.

(c) A certification issued under this chapter must be for one or more of the following methods of shorthand reporting:

- (1) written shorthand;
- (2) machine shorthand;
- (3) oral stenography; or

(4) any other method of shorthand reporting authorized by the supreme court.

(d) A person certified under this chapter before September 1, 1983, may retain a general certification authorizing the person to use any authorized method of shorthand reporting. The person must keep the certification in continuous effect.

(e) A person who has successfully completed a registered professional reporter's examination administered by the National Shorthand Reporters Association having standards and requirements equivalent to or more difficult than those prescribed by this chapter, who has made proper application for and successfully passed Part B of the certification examination administered by the Court Reporters Certification Board and who has been actively engaged in the practice of shorthand reporting while maintaining

from the date of the examination at which the applicant was disqualified.

**Sec. 52.024. Certification to Supreme Court.**

(a) The board shall certify to the supreme court the name of each qualified applicant who has passed the examination.

(b) After notice and an opportunity for a hearing, the board may refuse to certify to the supreme court an applicant convicted of a criminal offense involving:

(1) moral turpitude that indicates a clear and rational likelihood that the person will not properly discharge the responsibilities of a certified shorthand reporter; or

(2) fraud or corruption.

**Sec. 52.025. Title; Oaths.**

(a) On certification, a shorthand reporter may use the title "Certified Shorthand Reporter" or the abbreviation "CSR."

(b) A certified shorthand reporter may administer oaths to witnesses anywhere in this state.

**Sec. 52.026. Certification Fee and Renewal.**

(a) A person who receives certification as a shorthand reporter must pay the initial certification fee and any other required fee before receiving the certification.

(b) A certification expires at 12:01 a.m. on January 1 following the second anniversary of the date on which it was issued unless the certification is renewed. Thereafter, the certification expires at 12:01 a.m. of each second January 1 unless renewed.

(c) To renew a certification, the shorthand reporter must pay the renewal fee on or before the expiration date of the certification.

(d) The board may reinstate an expired certification if, not later than the 120th day after the date of expiration, the applicant pays the renewal fee and any penalty fee. The reinstatement dates from the original date of expiration.

(e) The board may reinstate a certification that has been expired for more than 120 days if the board finds, on a sworn affidavit of the applicant or by another method determined by the board, that the applicant has retained the professional skills required for original certification and has paid all delinquent renewal fees and any penalty fee. Reinstatement under this subsection expires on January 1 nearest the second anniversary of the reinstatement.

**Sec. 52.027. Verified Complaint.**

(a) To file a complaint against a certified shorthand reporter, a person must:

(1) complete a complaint form provided by the board;

(7) engaging in the practice of shorthand reporting using a method for which the reporter is not certified;

(8) engaging in the practice of shorthand reporting while certification is suspended;

(9) unprofessional conduct; or

(10) other sufficient cause.

(b) The board may suspend the certification:

(1) for a designated period of time not to exceed 12 months;

(2) until the person corrects the deficiencies that were the grounds for the suspension; or

(3) until the person complies with any conditions imposed by the board to ensure the person's future performance as a shorthand reporter.

(c) A suspended shorthand reporter may apply for reinstatement by presenting proof that:

(1) the designated time has expired;

(2) the person has corrected the deficiencies; or

(3) the person has complied with the conditions imposed by the board.

(d) On its own motion, the board may conduct a hearing to inquire into a suspension. If the board finds that a person has not corrected the deficiencies that were the grounds of the suspension or has not complied with the conditions imposed by the board, the board may revoke the person's certification.

#### **Sec. 52.030. Appeal of Disciplinary Action.**

An aggrieved person may appeal a disciplinary action of the board to a district court in the county of the person's residence. The appeal shall be by trial de novo, with or without a jury. If the aggrieved person is the official or deputy court reporter of the court in which the appeal will be heard, the presiding judge of the administrative district shall appoint the judge of another court or a retired judge to hear and determine the complaint.

#### **Sec. 52.031. Employment of Noncertified Shorthand Reporters.**

(a) A noncertified shorthand reporter may be employed until a certified shorthand reporter is available.

(b) A noncertified shorthand reporter may report an oral deposition only if:

(1) the noncertified shorthand reporter delivers an affidavit to the parties or to their counsel present at the deposition stating that a certified shorthand reporter is not available; or

(2) the parties or their counsel stipulate on the record at the beginning of the deposition that a certified shorthand reporter is not available.

(c) This section does not apply to a deposition taken outside this state for use in this state.